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Q1 sealing the inner space with the container therein so that the water sorber continues sorbing the water vapor and the getter continues absorbing the second gas or vapor. —

### REMARKS

Applicants have canceled, without prejudice, claims 21-23 in favor of newly added claims 24 and 25. These claims are supported by the attached Declaration of the inventors.

Applicants present the present Preliminary Amendment in conjunction with a Request by Applicants for Interference Pursuant to 37 CFR § 1.607 wherein Applicants respectfully request that an interference be declared between the above application and U.S. Patent Nos. 5,505,810 and 5,532,034. The information required by 37 CFR § 1.607(a) is set forth under headings which correspond to the subsections of § 1.607 to facilitate consideration by the Examiner.

#### **I. IDENTIFICATION OF THE PATENTS WHICH INCLUDE SUBJECT MATTER WHICH INTERFERES WITH THE APPLICATION**

The patents which claim subject matter which interfere with subject matter claimed in the present application ("the "Boffito" application) are U.S. Patent Nos. 5,505,810 and 5,532,034 ("the '810 and

'034 patents") issued on April 9, 1996 and July 2, 1996 respectively to Kirby et al., both of which are titled GETTER SYSTEM FOR VACUUM INSULATION PANEL. The '810 patent was issued on application Serial No. 471,740, filed June 6, 1995, which purports on its face to be a division of application Serial No. 349,836, filed on December 6, 1994. The '034 patent was issued on application Serial No. 349,836, filed December 6, 1994. Whirlpool Corporation is the assignee named on the face of both the '810 and '034 patents.

## **II. PRESENTATION OF A PROPOSED COUNT**

Attached Appendix A sets forth a proposed interference count. The proposed count is a phantom count prepared after consideration of the subject matter claimed by the respective parties.

A phantom count is being proposed in part because of the different language utilized by the respective parties to describe the same invention.

## **III. IDENTIFICATION OF CLAIM OF THE PATENTS WHICH CORRESPOND TO THE PROPOSED COUNT**

The proposed count covers subject matter claimed in claims 1 and 2 of the '810 patent and claims 1, 4-8, 11 and 12 of the '034 patent.

In order to assist the Examiner, attached Appendix B sets forth a side-by-side comparison of the first claim of both the '810 and '034 patents with the proposed count.

**IV. CLAIMS OF THE REISSUE APPLICATION  
WHICH CORRESPOND TO THE PROPOSED COUNT**

Newly added claims 24 and 25 in the reissue correspond to the proposed count. To assist the Examiner in this regard, Applicants attach Appendices C and D. Appendix C is a chart providing an element-by-element comparison of the newly added claims 24 and 25 with the phantom count. Appendix D shows where the phantom count is supported by specification of Applicants' issued patent.<sup>1</sup>

**V. 35 U.S.C. § 135(b) IS SATISFIED**

Less than a year has elapsed since the '034 patent issued; hence, the requirements of § 135(b) are satisfied in this case.

Canceled claims 21 and 22 were previously copied from the '810 patent, added to the present reissue application, and an interference

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<sup>1</sup> The present Reissue application, Serial No. 08/675,969, is the latest in a chain of applications which include U.S. Patent No. 5,408,832, Serial No. 08/278,129, filed on July 21, 1994, which was a continuation of Serial No. 08/038,643, filed March 29, 1993, which was a continuation-in-part of Serial No. 07/979,326, filed November 20, 1992, which claims the benefit of Italian application MI 92 A 001416, filed June 8, 1992. Accordingly, this Reissue application, Serial No. 08/675,969, should be accorded benefit of these prior applications in the declaration of interference. Reissue application Serial No. 08/675,969 should also be designated as the senior party in the interference as having the earlier effective filing date, i.e., June 8, 1992 and March 29, 1993, versus the earliest possible filing date of December 6, 1994, for the '810 and '034 patents.

requested, all within the year specified by § 135(b). Hence, the requirements of the statute have been satisfied.

**VI. CONCLUSION**

Applicants respectfully request that an interference be declared employing the proposed count set forth on attached Appendix A with claims 1-2 of the '810 patent and claims 1, 4-8, 11 and 12 of the '034 patent and claims 24 and 25 designated as corresponding to the count. Such action is respectfully requested.

Respectfully submitted,



D. Lee Antton

Reg. No. 32,129

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ANTTON & ASSOCIATES P.C.  
1899 L Street, N.W., 5<sup>th</sup> Floor  
Washington, DC 20036  
Telephone: (202) 293-8400  
Facsimile: (202) 293-8404